

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

VOLTERRA SEMICONDUCTOR
LLC,

Plaintiff,

v.

MONOLITHIC POWER SYSTEMS,
INC.,

Defendant.

C.A. No. 19-2240-CFC

**PLAINTIFF VOLTERRA SEMICONDUCTOR LLC'S NOTICE OF
SUBSEQUENT AUTHORITY**

Plaintiff Volterra submits this notice of subsequent authority to inform the Court of a newly issued Federal Circuit opinion that bears on Defendant's Motion to Preclude the Testimony and Opinions of Plaintiff's Damages Expert, Deforest McDuff [D.I. 280].

On February 4, 2022, the Federal Circuit issued its decision in *California Institute of Technology v. Broadcom Limited, et. al.*, Case No. 20-2222 (attached as Exhibit A hereto). In this opinion, the Federal Circuit addresses damages issues relating to sales outside the United States on pages 26-27. The Federal Circuit decision is relevant to Defendant's *Daubert* challenge, Section V(B), entitled, "Dr. McDuff's Royalty Base Improperly Includes Non-Infringing Sales."

Volterra submits this new decision because it supports Volterra's argument in its opposition brief to the *Daubert* motion at page 13 (D.I. 308), specifically the argument made by Volterra that, "[l]ater in his report, [Dr. McDuff] explained how this evidence should be used by the jury; namely; if the jury determines that these acts of direct infringement are responsible for MPS winning the Nvidia contract then the 'finder of fact could reasonably award the full apportioned amount' of damages. *Id.* at ¶118." In the *California Institute of Technology* decision, the Federal Circuit approved the district court's jury instruction which stated that activities in the United States showing a "sales cycle leading to design wins" could trigger treatment of resulting sales as United States sales for damages purposes. *See California Institute of Technology* (Exhibit A) at 26-27.

Dated: February 14, 2022

FISH & RICHARDSON P.C.

By: / Robert M. Oakes

Robert M. Oakes (#5217)
222 Delaware Avenue, 17th Floor
Wilmington, DE 19899
Telephone: (302) 652-5070
oakes@fr.com

David M. Barkan
500 Arguello Street, Suite 400
Redwood City, CA 94063
Tel: (650) 839-5070
barkan@fr.com

Counsel For Plaintiff
VOLTERRA SEMICONDUCTOR LLC